

REMARKS

Claims 1, 2, 6, 8, and 9 are pending in this application. In view of at least the following remarks, reconsideration and allowance are respectfully requested.

Submitted herewith is a Declaration under 37 C.F.R. § 1.132 to further support the arguments presented in the Amendment filed on November 18, 2009. As noted in the Amendment filed on November 18, 2009, the Office Action asserts that the range of melting points of the alpha-olefin copolymer disclosed in Miyamoto (110°C or less) is equivalent to or overlaps with the recited range of softening temperatures of the claimed metallocene linear low-density polyethylene (*see* page 2 of the Office Action). Furthermore, the Office Action asserts that "the examiner takes the position that the m-LLDPE taught in Miyamoto which has a density in the overlapping claim range (0.90-0.907) will inherently meet the claimed softening point since said polymers are compositionally identical to the claimed polymers" (*see* page 3 of the Office Action). Applicants respectfully disagree.

As demonstrated in the attached Declaration under 37 C.F.R. § 1.132 (Declaration), Applicants submit that the Office Action's assertions are improper because (1) softening temperature and melting point are distinct properties, (2) softening temperature and density of LLDPEs are not directly or linearly correlated, and (3) the claimed metallocene linear low-density polyethylene and the polymers of Miyamoto are not identical.

As discussed in the attached Declaration, comparative Example 1 of Table 2 of Miyamoto and Comparative Example 1 of the present specification both have a density of 0.908 g/cm³; however, these examples have different melting points and thus must not be compositionally identical. Paragraph [0005] of Miyamoto teaches that the melting point of the ethylene-alpha-olefin copolymer is 110°C or less. Although Miyamoto discloses that the melting point of the ethylene-alpha-olefin copolymer is 110°C or less, this range of melting points does not necessarily mean that a copolymer with a softening temperature in the range

of 75°C to 97°C will be present. Miyamoto does not provide any examples that show that the ethylene-alpha-olefin copolymer has a softening temperature ranging from 75°C to 97°C. As discussed on page 13 of the present specification and in the Declaration, the claimed properties of the claimed metallocene LLDPE require careful control of the molecular structure (including the molecular weight range) of the claimed metallocene LLDPE (*see* page 13, lines 26-35, of the present specification). Miyamoto does not suggest that such careful control is required.

The attached Declaration presents data showing that simply because the ethylene-alpha-olefin copolymer disclosed in Miyamoto has a melting point of 110°C or less does not necessarily indicate that the softening temperature of the ethylene-alpha-olefin copolymer falls within the recited range of softening temperatures in claim 1 or that the method disclosed in Miyamoto would necessarily produce an ethylene-alpha-olefin copolymer having the recited range of softening temperatures in claim 1.

The attached Declaration and the present specification indicate a correlation between a density of the soft material layer and a softening temperature thereof measured by the TMA method is not clearly understood. The Office Action merely asserts that the "m-LLDPE taught in Miyamoto which has a density in the overlapping claim range (0.90 - 0.907) will inherently meet the claimed softening point since said polymers are compositionally identical to the claimed polymers" (*see* page 3 of the Office Action). The Declaration presents data indicating that it can not be presumed that the ethylene-alpha-olefin copolymer disclosed in Miyamoto and the claimed metallocene LLDPE are compositionally identical, simply based on the specific gravity of the claimed metallocene LLDPE recited in claim 1 and the ethylene-alpha-olefin copolymer disclosed in Miyamoto.

Specifically, as noted in the attached Declaration, Comparative Example 1 in Table 2 of the present specification and Comparative Example 1 in Table 2 of Miyamoto both have

densities of 0.908 g/cm³, yet Comparative Example 1 of the present specification has a softening temperature of 104.3°C (and a DSC melting point of 104°C) and Comparative Example 1 of Miyamoto has a melting point of 120°C. Thus, given the facts presented in the Declaration, one may not presume or infer that similarities in densities of LLDPEs necessarily indicate that the polymers of Miyamoto are *compositionally identical*, much less inherently possess equivalent softening temperatures within the claimed range.

Therefore, in view of the data presented in the Declaration, Miyamoto fails to disclose, either expressly or inherently, the claimed metallocene linear low-density polyethylene with the recited range of softening temperatures in claim 1. For at least these reasons, Applicants submit that Miyamoto fails to disclose each and every element of claim 1, as required for anticipation under 35 U.S.C. §102(b). Thus, Miyamoto does not anticipate claims 1, 2, 6, and 8.

Reconsideration and withdrawal of the rejection are respectfully requested.

Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of the application are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,


James A. Oliff
Registration No. 27,075

Azza M. Jayaprakash
Registration No. 55,299

JAO:AMJ/dxc

Date: December 3, 2009

Attachment:

Declaration under 37 C.F.R. §1.132

OLIFF & BERRIDGE, PLC
P.O. Box 320850
Alexandria, Virginia 22320-4850
Telephone: (703) 836-6400

<p>DEPOSIT ACCOUNT USE AUTHORIZATION Please grant any extension necessary for entry; Charge any fee due to our Deposit Account No. 15-0461</p>
--